



CITY COUNCIL AGENDA REPORT

MEETING DATE: June 1, 2021

ITEM NUMBER: PH-3

SUBJECT: ESTABLISHING AND ADOPTING FEES AND SERVICE CHARGES RELATED TO CANNABIS BUSINESS PERMITS AND CONDITIONAL USE PERMITS PURSUANT TO CHAPTER VI OF TITLE 9 AND ARTICLE 21 OF CHAPTER IX OF TITLE 13

DATE: June 1, 2021

FROM: FINANCE DEPARTMENT

PRESENTATION BY: CAROL MOLINA, FINANCE DIRECTOR

**FOR FURTHER INFORMATION
CONTACT:**

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RECOMMENDATION:

Staff recommends that City Council approve the attached resolution establishing and adopting fees in connection with cannabis conditional use permits and business permits and related approvals to implement the new retail cannabis program throughout the City approved by the voters under Measure Q.

BACKGROUND:

On November 3, 2020, voters approved Measure Q authorizing the City Council to adopt ordinances to establish retail cannabis regulation, taxation, and zoning requirements.

The City partnered with ClearSource Financial Consulting, a firm with expertise in the laws and best practices regarding the establishment of user fees and charges, to develop fees for new Measure Q retail cannabis business and to review existing fees for Measure X manufacturing and distribution businesses. This process was conducted to ensure that all fees for Cannabis businesses in the City represent the reasonable cost of providing permit application and processing services to this growing sector of Costa Mesa's economy.

ClearSource met with each city department that will play a role in Measure Q Cannabis business permit applications. Each department provided information about their respective services related to reviewing and processing cannabis applications, then time and cost estimates were developed for the cost of service fee to be calculated. The formula used to derive the cost of service was guided by the Federal Office of Management and Budget's (OMB) A-87 guidelines for full cost allocation which reflects an assigned hourly rate that includes the following: direct and indirect labor costs, services and supplies, and overhead, multiplied by the estimated time needed to perform the service. ClearSource used the data provided by city staff to develop all fees and determine the cost of recovery.

ANALYSIS

The fees were structured in accordance with the industry's best practices and California statute. User and regulatory fees should be set according to the estimated reasonable cost of service and should bear a fair and reasonable relationship to the payer's burdens on, or benefits received from the activities and/or services provided by the City.

On a recurring basis, staff reviews existing user and regulatory fees and rates as a basis for recovering allowable costs of certain City services. The services for which a city imposes a user or regulatory fee typically derives from an individual person or entity's action, request, or behavior. Therefore, except in cases where there is an overwhelming public benefit generated by a city's involvement in the individual action, a fee for service ensures that the individual bears most, if not all, of the cost incurred by the City to provide that service. When a fee targets "100% or full cost recovery," the individual is bearing the entirety of the cost. When a fee targets less than full cost recovery, another City revenue source – in most cases, the General Fund – subsidizes the individualized activity.

With the City having already adopted Measure X fees for the Cannabis Business Permit (CBP) and Conditional Use Permit (CUP), as part of the citywide fee study, ClearSource was able to update the original fee based on more recent data regarding the estimated cost of service for Measure X, and also develop new Measure Q fees. Time estimates for processing Measure X cannabis applications has improved due to institutional knowledge that staff gained from processing applications for existing businesses. Based on the current staff hours required, Measure X fees are recommended to be adjusted with a slight decrease.

Measure Q fees for the new retail cannabis businesses were developed with an updated review of the application process that resembled processes for Measure X, with certain modifications. The calculation of cost of service levels for Measure Q applications was slightly lower than for Measure X businesses based on retail uses. As a result, the difference between Measure X and Measure Q fees are not substantial. Staff provided different types of regulations that are required for different cannabis uses regardless of a retail only component.

ClearSource also analyzed both the Major and Minor CBP and the CBP employee badge fee for cost recovery. It was determined that the fees currently set for the Major and Minor CBP did not capture the full cost of service. To right size the fee, the fee increased and is now reflective of 100% full cost recovery. Staff is proposing cost recovery levels at 100% for all fees.

The City is proposing only one new fee, which is the biannual CBP renewal fee. Currently, the City requires cannabis businesses renew their CBP every two years at no cost despite the staff time and effort involved in reviewing the cannabis business permit renewals. From the inception of business operations, regulation occurs annually with a biannual renewal. With a zero dollar fee, the cost of regulation and of processing the CBP renewal permit has been completely subsidized by the City.

Staff is proposing to recover costs as allowed for a full cost recovery of business renewals. As part of the fee study, utilizing information from direct staff outreach, data from HdL, and ClearSource, it was found that most cities assess an annual renewal fee. In comparison to other cities, Costa Mesa's proposed annualized fee is on the lower end of the spectrum. It is important to clarify that an apples to apples comparison was not possible. Every city develops a regulatory structure that is in line with that city's goals and anticipated regulation level which may encompass more than just a regulatory permit fee. However, what is clear is that establishing a fee for the renewal process is recommended in order to achieve full cost recovery.

The City has proposed regulations, standards, and permitting processes for cannabis businesses. The attached resolution establishes fees intended to offset the costs of permit processing, regulation of cannabis businesses, and employee badges.

ENVIRONMENTAL DETERMINATION

Pursuant to the provisions of the California Environmental Quality Act ("CEQA") (California Public Resources Code Sections 21000 et seq.) and State CEQA guidelines (Sections 15000 et seq.) the Measure Q and the fee resolution establishing and adopting fees related to cannabis business permits is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b) (3), because it can be seen with certainty that there is no possibility that these actions may have a significant effect on the environment.

ALTERNATIVES CONSIDERED:

City Council may approve staff's recommended full cost recovery proposed fees. Council may also not approve the recommended actions and direct staff accordingly.

FISCAL REVIEW:

The anticipated revenue impact of adopting the proposed use permit fees and cannabis business permit fees is approximately \$1,056,000 per year. Revenues will offset the costs of permit application review and on-going business regulation. Actual revenues will vary based on actual permits received.

LEGAL REVIEW:

The City Attorney's Office has reviewed this Agenda Report and Resolution and approves them as to form.

CONCLUSION:

Staff recommends that City Council approve the attached resolution establishing and adopting fees and service charges related to cannabis business permits and conditional use permits to offset the costs of permit processing for cannabis businesses.

CAROL MOLINA
Director of Finance

KIM HALL BARLOW
City Attorney

JENNIFER LE
Director of Economic and
Development Services

- ATTACHMENTS:
- 1 [Resolution Establishing and Adopting Fees in Connection with Conditional Use Permits and Cannabis Business Permits](#)
 - 2 [Cannabis Use Permit and Business Permit Fee Presentation](#)